



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,656	11/29/2000	David J. Barich	47440-037000	9587

7590 05/22/2002

Stephen T. Scherrer, Esq.  
Margaret M. Duncan, Esq.  
McDERMOTT, WILL & EMERY  
227 West Monroe Street  
Chicago, IL 60606-5096

EXAMINER

COZART, JERMIE E

ART UNIT	PAPER NUMBER
----------	--------------

3726

DATE MAILED: 05/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/725,656

Applicant(s)

BARICH ET AL.

Examiner

Jermie Cozart

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9-16 and 20 is/are rejected.
- 7) ☒ Claim(s) 3, 8, and 17-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 48. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: On page 6, line 19, it is suggested to change "37" to --39--; On page 8, line 13, it is suggested to change "46" to --48--; On page 12, line 23, it is suggested to delete "it"; On page 13, lines 20 and 22, it is suggested to change "37" to --39--; On page 14, lines 9 and 11, it is suggested to change "37" to --39--; On page 16, lines 29 and 30, it is suggested to change "37" to --39--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 15 recites the limitation "the inbound railway" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 16 recites the limitation "the transfer means" in line 1 of the claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 2, 4, 10, 13, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatum in view of Ng.

Tatum discloses repairing railcars, providing a railcar maintenance facility wherein the maintenance facility comprises a plurality of maintenance/repair stations (A-spot, B-spot, C-spot, D-spot, E-spot, F-spot), transferring the railcar to at least one of the maintenance/repair stations, working on the railcar within the maintenance stations, and moving the railcar out of the maintenance facility. Tatum also discloses disassembling the railcar to repair the railcar within a first maintenance station (A-spot), reassembling the railcar after it is repaired within a second maintenance station (C-spot). Tatum further discloses removing all defective parts that are to be renewed or repaired which is considered to be similar to cleaning the railcar within one of the maintenance stations.

Tatum, however, does not disclose a transfer area, moving the railcar to the transfer area, inspecting the railcar for maintenance needs prior to moving the railcar to

the transfer area, inspecting the railcar for maintenance needs, or administering a designation to the railcar based on the maintenance needs of the railcar.

Ng discloses a transfer area (not labeled in Figure 1, the area where the car (16) is transferred to an alternate inbound railway (20) en route to the maintenance facility (26)), moving the railcar (16) to the transfer area (described above), inspecting the railcar for maintenance needs prior to moving the railcar to the transfer area (column 5, lines 29-39), inspecting the railcar for maintenance needs (see also column 5, lines 29-39), administering a designation via manual communication units (62) to the railcar based on the maintenance needs of the railcar. See column 5, lines 39-48 for further clarification.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the invention of Tatum with a transfer area, move the railcar to the transfer area, inspect the railcar for maintenance needs prior to moving the railcar to the transfer area, and administer a designation to the railcar based on the maintenance needs of the railcar, in light of the teachings of Ng, in order to more effectively schedule and perform preventive maintenance and proper repair of a damaged or potentially defective railcar.

9. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatum/Ng as applied to claims 1, 2, 4, 10, 13, and 20 above, and further in view of Williams.

Tatum/Ng as modified above discloses all of the claimed subject matter except for providing an inbound railway and an outbound railway, moving the railcars into and

Art Unit: 3726

out of the maintenance facility via the inbound and outbound railways, respectively, or providing an inspection area connected to an inbound railway.

Williams discloses providing an inbound railway (26) and an outbound railway (28), moving the railcars into and out of the maintenance facility (30) via the inbound and outbound railways (26, 28), respectively, and providing an inspection area contained in the maintenance facility (30) connected to the inbound railway (26), in order to more effectively deliver railcars into the proper area for either repair and/or being placed back into operating service. See column 3, lines 32-56 for further clarification.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an inbound railway and an outbound railway to the apparatus of Tatum/Ng, move the railcars into and out of the maintenance facility via the inbound and outbound railways, respectively, and to provide an inspection area connected to an inbound railway, in light of the teachings of Williams, in order to more effectively deliver railcars into the proper area for either repair and/or being placed back into operating service.

10. Claims 6, 7, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatum/Ng as applied to claims 1, 2, 4, 10, 13, and 20 above, and further in view of Japanese Patent 09248766 (JP'766).

Tatum/Ng as modified discloses all of the claimed subject matter except for removing a paint coating from an interior of the railcar within one of the maintenance stations, removing a paint coating from an exterior of the railcar within one of the

Art Unit: 3726

maintenance stations, removing the paint coating by blasting the interior of the railcar with a scouring material, or wherein the scouring material is selected from the group consisting of metal grit, metal pellets, sand, and water.

JP`766 discloses removing a paint coating from a surface of the railcar, removing the paint coating by blasting the surface of the railcar with a scouring material, wherein the scouring material is water. It is apparent that the paint is removed from a surface of the railcar.

It is conventional and well known that a surface requiring paint removal may be an interior and/or exterior surface of a vehicle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to remove a paint coating from an interior and/or exterior of a railcar of Tatum/Ng, and to remove the paint coating by blasting the interior surface of the railcar with a scouring material, wherein the scouring material is water, in light of the teachings of JP`766, in order to more effectively reduce the amount of time required to effectively remove paint from a railcar.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tatum/Ng as applied to claims 1, 2, 4, 10, 13, and 20 above, and further in view of Kipp.

Tatum/Ng discloses all of the claimed subject matter except for curing the coating of paint within a second maintenance station.

Kipp discloses administering a coating of paint to the exterior of a railcar in a first maintenance station (12), and curing the coating of paint within a second maintenance station (14). See column 1, lines 42-49 for further clarification.

Art Unit: 3726

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to cure the coating of paint within a second maintenance station of the apparatus of Tatum/Ng, in light of the teachings of Kipp, in order to allow for the automatic painting of railcars while moving the cars from one position to another thereby providing an improved reduction in time and work-space.

12. Claims 14 and 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tatum/Ng as applied to claims 1, 2, 4, 10, 13, and 20 above, and further in view of Stapp.

Tatum/Ng as modified above discloses all of the claimed subject matter except for providing a transfer table for transferring the railcar through the maintenance facility, the transfer means comprising a plurality of transfer tables, or transferring a plurality of railcars through the facility via the plurality of transfer tables.

Stapp discloses providing a transfer table (8) for transferring a railcar (14) through the maintenance facility. Stapp also disclose a transfer means comprising a plurality of transfer tables (8), transferring a plurality of railcars (14) through the facility via the plurality of transfer tables (8). See column 2, lines 4-15 for further clarification.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a transfer means for the apparatus of Tatum/Ng having a plurality of transfer tables, transfer a plurality of railcars through the facility via the plurality of transfer tables, in light of the teachings of Stapp, in order to more effectively relocate the railcars between tracks in a train yard or railroad facility.



***Allowable Subject Matter***

13. Claims 3, 8, and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***References Cited***

14. The references cited on the attached PTO-892 are cited to show railroad car loading and unloading systems.

***Conclusion***

15. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

16. If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 703-305-

Art Unit: 3726

0126. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Petitions/Special Programs	(703) 305-9285
Terminal Disclaimers	(703) 305-8408
PCT Help Desk	(703) 305-3257

If the information desired is not provided above, or a number has been changed, please call the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	<a href="http://www.uspto.gov">http://www.uspto.gov</a>

  
Jermie Cozart  
Examiner  
Art Unit 3726

JC   
May 20, 2002